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राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 18 दिसम्बर, 1976/27 अग्रहायण, 1898

GOVERNMENT OF HIMACHAL PRADESH

CO-OPERATION DEPARTMENT

NOTIFICATION

Simla-171002, the 10th December, 1976

No. Cop. E-(11)-21/74.—In exercise of the powers conferred by section 109 of the Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969), the Governor, Himachal Pradesh, is pleased to make the following amendments in the Himachal Pradesh Co-operative Societies Rules, 1971, after the same having been previously published in the Rajpatra, Himachal Pradesh (Extraordinary), dated the 27th April, 1976:—

THE HIMACHAL PRADESH CO-OPERATIVE SOCIETIES
(AMENDMENT) RULES, 1976

Short title
and com-
mencement.

1. (1) These rules may be called as the Himachal Pradesh Co-operative Societies (Amendment) Rules, 1976.

(2) These shall come into force at once.

Amendment
of rule 2.

2. In clause (xix) of rule 2 of the Himachal Pradesh Co-operative Societies Rules, 1971 (hereafter called the "said rules") after the word "date", the following shall be added:—

"and includes the surety of such person".

Amendment
of rule 39.

3. In rule 39 of the said rules, the following amendments shall be carried out, namely:—

(a) after the existing sub-rule (1), the following new sub-rule (A-1) shall be added, namely:—

"(A-1) Out of the persons appointed under sub-rule (1), one shall be a person belonging to scheduled castes, one belonging to scheduled tribes and the remaining, if any, representing other appropriate interests including the interests of women, unless a member each belonging to the scheduled castes and scheduled tribes and representing other interests has already been elected on such Committee;"

(b) for the existing sub-rule (2), the following sub-rule (2) shall be substituted:—

"(2) The members so appointed under sub-rules (1) and (1-A) shall hold office till the next election of the Managing Committee or till another person is appointed in his place, whichever is earlier and shall have the right to vote. The Registrar shall either confirm their membership to the committee or shall appoint other persons in their place for the next term of the committee."

Amendment
of rule 56.

4. For the existing sub-rule (5) of rule 56 of the said rules, the following shall be substituted namely:—

"(5) Where, in the course of an audit under section 61, or an inspection under section 65, or an inspection under section 66, or an inquiry under section 67, it is brought to the notice of the Registrar that the paid officer or servant of the society had committed, or has been otherwise responsible for mis-appropriation, breach of trust or other offence, in relation to the society *or has wilfully neglected or failed to discharge his duties and functions as enjoined on him under the Act, rules or bye-laws or is otherwise responsible for any act or omission thereby adversely affecting the interest of the society*, the Registrar, if in his opinion there is *prima facie* evidence against the paid officer or servant, and suspension of such paid officer or servant is necessary in the interest of the society, direct the committee of the society, pending the investigation and disposal of the matter, as the case may be, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him."

5. For the existing sub-rule (1) of rule 72 of the said rules, the following shall be substituted, namely:— Amendment of rule 72.

“(1) In every society with shares, the dividend may be declared upto a maximum of *twelve per cent* per annum on the amount of paid up shares.”

6. After rule 81 of the said rules, the following new rule 81-A shall be inserted, namely:— Insertion of rule 81-A.

“81-A. *Advancement and recovery of crop loans.*—(1) In addition to the agricultural purposes defined in Explanation to section 90-A of the Act, the loans may also be advanced for the purposes of cutting, pruning and spraying the crops, purchase of insecticides, pesticides, spray oils, etc. and appliances used for such operations, defraying of expenses on labour charges and transportation charges for the marketing of agricultural produce.

(2) The loans advanced for the purposes mentioned in explanation to section 90-A of the Act and in sub-rule (1) shall be repayable on or before such dates as may be specified by the State Government, in the orders issued from time to time, in this behalf.”

7. For the existing sub-rule (2) of rule 91 of the said rules, the following shall be substituted, namely:— Amendment of rule 91.

“(2) The Registrar or the Arbitrator, as the case may be, shall, after giving reasonable opportunity to the parties of being heard, give a decision or award, as the case may be, in accordance with the principles of justice, equity and good conscience. The decision or award shall be reduced to writing, announced to the parties and filed in the office of the Registrar within a period of *four months*:

Provided that the said period of *four months* may be extended by the Registrar, Co-operative Societies, from time to time whether before or after the expiry of the said period of four months.”

8. For rule 132 of the said rules, the following rules 132, 132-A, 132-B and 132-C shall be substituted, namely:— Substitution of rule 132.

“132. *Constitution of Co-operative Appellate Tribunal.*—(1) The Co-operative Appellate Tribunal under section 108 of the Act, shall be called the Himachal Pradesh Co-operative Appellate Tribunal.

(2) The Tribunal shall consist of the President and not more than three other members to be appointed by the Government, who shall possess the following qualifications:—

(a) The President of the Tribunal, shall be a person who is qualified to be a Judge of any High Court in India or is a retired District Judge, or who has held the office of the Registrar or Joint Registrar of Co-operative Societies for not less than three years under any State Government or a member of *Indian Administrative Service* who has been borne on the *State Cadre* for a period of not less than five years.

(b) The other members of the Tribunal shall be persons who have held the office of the Registrar or Joint Registrar of Co-operative Societies for not less than three years under any State

Government or a member of Administrative Service who has been borne on the State Cadre for a period not less than five years or as non-officials closely associated with the Co-operative movement who possess legal qualification (a recognised degree in law) and experience.

- (3) Notwithstanding anything contained in sub-rule (2), a person shall be disqualified for being appointed as or for continuing as, President or a member of the Tribunal if he is, or becomes, a member of the committee of any society other than an educational society, a propagandist society or a federal society which is not a business institution.
- (4) (a) The President and each of the other members of the Tribunal shall hold office for such period not less than two years, as the State Government may by notification in the Official Gazette specify in his case, and shall be eligible for re-appointment.
- (b) Notwithstanding anything contained in clause (a), no person shall be eligible to continue to hold office of the President or a member of the Tribunal after he attains the age of sixty-five years.
- (c) The President or a member of the Tribunal may at any time resign his office.
- (d) The President or a member of the Tribunal may, with the previous permission of the State Government hold any other office, appointment or employment not inconsistent with his position on the Tribunal.
- (5) Notwithstanding anything contained in sub-rule (4), the State Government may terminate, at any time, the appointment of the President or a member, if, in its opinion, such President or member is unable or unfit to continue to perform the duties of his office:
- Provided that no appointment shall be terminated under this sub-rule unless the person whose appointment is proposed to be terminated is given a reasonable opportunity of showing cause against such termination.
- (6) (a) If any vacancy in the membership of the Tribunal occurs by leave or absence, deputation, death, resignation, expiry of the period of appointment, termination of the appointment or for any other cause whatsoever, such vacancy shall be filled by the State Government by a person qualified for appointment under sub-rule (2) of this rule.
- (b) Till the vacancy in the office of President is filled on regular basis the Registrar shall have the power to appoint the Chairman out of the existing members of the Tribunal.
- (7) The headquarters of the Tribunal shall be at Simla or at such other place as may be notified by the State Government in the Official Gazette.
- (8) The powers and functions of the Tribunal may be exercised and discharged by benches constituted by the President from amongst the members of the Tribunal including himself:
- Provided that any inter-locutory application may be heard by one or more members who may be present.
- (9) The Benches of the Tribunal shall consist of two or more members,

(10) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail and in other cases the matter shall be referred to the President, and shall be decided in accordance with his decision.

(11) Subject to the previous approval of the State Government, the Tribunal shall frame regulations consistent with the provisions of the Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(12) The regulations made under sub-rule (11) shall be published in the Official Gazette.

132-A. *Powers of the Co-operative Appellate Tribunal.*—The Tribunal shall exercise all the appellate or revisional powers which the State Government exercises under sections 93, 94 and 95 of the Act, except for the matters referred to in clauses (a) to (d) and (i) and (f) of section 93 (1) of the Act.

132-B. *Tribunal to have powers of civil court.*—(1) In exercising the functions conferred on it by or under the Act and the rules framed thereunder, the Tribunal shall have the same powers as are vested in a civil court in respect of—

- (a) proof of facts by affidavit,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling discovery of the production of documents, and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

132-C. *Pay and allowances of the President and other members of the Tribunal.*—The President and other members of the Tribunal shall be entitled to receive such pay and allowances as may be specified by the State Government in the orders issued from time to time in this behalf.”.

9. The figures and sign, “73”, occurring in rule 145 of the said rules shall be omitted.

Amendment
of rule 145.

By order,
Y. L. RAJWADE,
Secretary.

